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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/830,060	04/23/2004	Ari Pellinen	3502-1055	8740

466 7590 12/12/2006

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EXAMINER

PATEL, TARLA R

ART UNIT	PAPER NUMBER
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3772

DATE MAILED: 12/12/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/830,060

Applicant(s)

PELLINEN, ARI

Examiner

Tarla R. Patel

Art Unit

3772

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 23 April 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,9,10 and 13-17 is/are rejected.
- 7) ☒ Claim(s) 2-8,11-12,18-20 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date 4/23/04.

- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Information Disclosure Statement***

1. The Information disclosure statement (IDS) submitted on 04/23/2004 is acknowledged by Examiner. The IDS meets the requirements of 37 CFR 1.97 and 1.98 and therefore the references there in have been considered.

### ***Claim Objections***

2. Claim 14 objected to because of the following informalities: In line 15 the limitation reciting "the actuator" and "point of connection" does not have support in the claim, nor in claim 13 from which it depends. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1,9,10 and 13-17 are rejected under 35 U.S.C. 102(b) as being anticipated by Schwenn (5,487,724).

Schwenn discloses an apparatus for exercising and supporting an upper limb (102), which comprises two support modules (see fig. 1) connected on the first side by a rigid connecting piece (117), wherein both support modules have a frame (137) with a support plate (135,103) fixed to its upper part, an exercising part (see fig. 3) is removably attached to the support plate of the first support module. The exercising part comprises an upper arm support means articulated or hinged (141) in the support plate and an actuator (133) rotating or moving said support means or part of it relative to the support plate. Furthermore with respect to claim 13 examiner interprets the support modules can be fitted immediately underneath the shoulder joints (see fig. 1). Schwenn discloses that the frame of said support module is inherently exerting a force from the surgical upper limb (see fig. 1).

With respect to claim 9 the hinge of the support plate can be turned horizontally or vertically in relation to the support plate (column 4 lines 61-66).

With respect to claim 10 the support means comprises first connecting part hinged (125) horizontally turntable to the nose of the support plate.

With respect to claim 14, examiner interprets that the apparatus's upper arm support means is shifted relative to the support plate by means of the actuator, whenever the upper arm of the patient moves backward and forward (column 4 lines 34-36).

With respect to claim 15, examiner interpreted that the hinge (141) controls the distance between the upper arm support means and support plate.

With respect to claim 16, examiner interprets that whenever the upper arm support means is moved the distance between the upper arm support means and support plate is changed.

With respect to claim 17, upper arm support means inherently moves horizontally forth and back in relation to the shoulder line by rotating the connecting part (139).

***Allowable Subject Matter***

5. Claims 2-8, 11, 12 and 18-20 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The following is a statement of reasons for the indication of allowable subject matter: The prior art failed to teach the limitation that the apparatus wherein the connecting part is articulated in a curved support plate at the point of connection and a pneumatic actuator is being attached there between. And upper arm support part is changed with the glide parts fixed in gliding relationship. The overall length of the glide parts depends on the angle of incidence between the connecting means of the upper arm shoulder means and the support plate. The actuator can be actuated to change the angle of incidence between connecting parts and support plate; the actuator is a pressure spring or a pneumatic device.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tarla R. Patel whose telephone

number is 571-272-3143. The examiner can normally be reached on M-F 6-3.30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patricia Bianco can be reached on 571-272-4940. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

TP

*Patricia Bianco*  
12/11/07